

PCT Rec'd PCT/PTO 21 DEC 2004

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

10/518591



Applicant's or agent's file reference 0000054823	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/07254	International filing date (day/month/year) 07.07.2003	Priority date (day/month/year) 22.07.2002
International Patent Classification (IPC) or both national classification and IPC A01N33/18		
Applicant BASF CORPORATION et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 16.12.2003	Date of completion of this report 08.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Molina de Alba, J Telephone No. +49 89 2399-7823 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/07254

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-13 as originally filed

Claims, Numbers

1-10 filed with telefax on 26.05.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-10
	No: Claims	
Inventive step (IS)	Yes: Claims	1-10
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/07254

1) The present application relates to methods of control of undesirable plants and methods for safening a desirable crop from the effects of a herbicide, the methods involving application of dinitroaniline herbicides in microencapsulated form.

2) Re Item V

2.1 Novelty (Art. 33(2) PCT)

No document in the available prior art discloses methods as presently claimed. The subject-matter of claims 1-10 is therefore regarded as novel.

2.2 Inventive Step (Art. 33(3) PCT)

None of the cited documents or combination thereof suggests the claimed herbicidal or safening methods. Furthermore, the safening effect observed for microencapsule formulations of dinitroaniline herbicides with regard to their corresponding EC-formulations is surprising. Thus, the subject-matter of claims 1-10 is regarded as inventive.

2.3 Industrial applicability (Art. 33(4) PCT)

Is acknowledged for the whole set of claims.

3) Further comments:

3.1 The units employed in examples 5-9 are not the ones stipulated by Rule 10.1(a) PCT. Thus, they should be additionally expressed in terms of the units of the Metric System.

3.2 The vague statements in the description on page 2, lines 34-38 and on page 13, lines 9-15 imply that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.

3.3 The sentences on pg. 4, l. 16-17 and on pg. 13, l. 5-7 should be deleted (cf. Article 5 PCT and PCT-ISPE-Guideline 4.26).

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What is claimed is:

1. A method for the preemergence control of undesirable plant species comprising applying as a tank mix to soil containing seeds of the undesirable plant a herbicidally effective amount of a microcapsule composition comprising a dinitroaniline compound, with a herbicide formulation comprising diflufenzopyr or dicamba or diflufenzopyr and dicamba.
2. The method of claim 1 wherein the microcapsule has a median diameter from 3 micrometers to 10 micrometers.
3. The method of claims 1 to 2 wherein the dinitroaniline compound is pendimethalin or trifluralin.
4. The method of claims 1 to 3 wherein the undesired plant is crabgrass.
5. A method for the control of undesirable plants in the presence of desirable crop plants which comprises applying to soil containing the desirable plants and seeds of the undesirable plant a herbicidally effective amount of a microcapsule composition comprising a dinitroaniline compound.
6. The method of claim 5 wherein the microcapsule has a median diameter from 3 micrometers to 10 micrometers.
7. The method of claims 5 to 6 wherein the dinitroaniline compound is pendimethalin or trifluralin.
8. The method of claims 5 to 7 wherein the undesired plant is crabgrass.
9. The method of claims 5 to 8 wherein the desired plant is lettuce, tomatoes or corn.
10. A method for safening a desirable crop from the effects of a herbicide applied to control undesirable plants in the presence of the desirable crop plants which comprises applying a herbicidally effective amount of a microcapsule composition comprising a dinitroaniline compound.